



Staff Report

RESOLUTION VACATING PORTIONS OF SIXTH AVENUE AND O'NEILL AVENUE ALONG THE FRONTAGE OF 1000 O'NEILL AVENUE (EMMETT HOUSE SITE)

Honorable Mayor and Council Members:

Summary

The City Council is requested to adopt a resolution vacating portions of public right-of-way on Sixth Avenue and O'Neill Avenue.

Background

The City of Belmont Redevelopment Agency proposes to relocate an existing building (the Emmett House) from a site located at 843 Ralston Avenue (APN 045-182-230) to 1000 O'Neill Avenue (APNs: 045-261-010, -020 and -030) at the northwest corner of Sixth Avenue and O'Neill Avenue. The Belmont Redevelopment Agency owns both the donor and receiver sites.

Completion of the project includes the vacation of portions of Sixth Avenue and O'Neill Avenue to create a site large enough to accommodate the rehabilitated Emmett House. Originally, the portions proposed to be vacated were excess right-of-way; however, the Sixth Avenue portion encompassed an area that included the underground culvert that carries Belmont Creek and two protected trees.

The Planning Commission reviewed the matter at their July 3, 2007 meeting, and provided a recommendation for the City Council to vacate portions of O'Neill and Sixth Avenues. The Commission recommended that only the portions of excess right-of-way that did not include the underground culvert or the protected trees be vacated. The July 3, 2007 Commission staff report, and meeting minutes are provided as part of this staff report (See Attachment C).

On July 24, 2007, the City Council declared its intention to vacate the portion of O' Neill and Sixth Avenues fronting the property at 1000 O' Neill Avenue. Notices for public hearing were sent to all residents within 300' radius, published in a newspaper, and posted along the streets.

Discussion

Vacation proceedings must be conducted in accordance with Division 9, Part 3, Chapter 3 of the Streets and Highways Code. To vacate a public street, the City must be able to make the necessary findings that the street to be vacated is unnecessary for present or prospective public use and that there is public benefit derived from the vacation. Relief from the burden of maintenance of a roadway has been determined to be of sufficient public benefit. Because these portions of Sixth and O'Neill are not used by vehicular traffic and do not serve as access to any property other than the

Emmett House property, a finding can be made that there is no existing benefit to the general public on this portion of street. A parcel map will be presented to the Council for approval in a future meeting to reserve a storm drain and tree easement. This will allow the City to maintain the Belmont Creek box culvert and the protected trees as recommended by the Planning Commission without the need to maintain a large excessive right-of-way fronting a property.

General Plan/Vision Statement

The action associated with vacating portions of Sixth and O'Neill Avenues further the City's General Plan Goals as follows:

General Plan Goal 1015.4

"To maintain and enhance the appearance of the City through controlling the location, timing, design and landscaping of new development and encouraging renovation of older areas".

General Plan Goal 1015.3

"To preserve significant open spaces, trees, views, waterways, wildlife habitats and other features of the natural environment".

Fiscal Impact

None at this time. However, the final end use of the donor site will need to be specified by the Redevelopment Agency, including whether or not the Redevelopment Agency will retain ownership of the Emmett House property, while selling the airspace rights to the units to qualifying residents. Fiscal analysis would be completed upon direction by the Redevelopment Agency on the preferred uses.

Furthermore, if the individual Emmett House units are sold as below-market rate condominiums or rented as below-market rate apartment units, a fiscal impact analysis would be performed to provide information to guide the Redevelopment Agency in their decision-making process.

Public Contact

Notice to the public was conducted in accordance with the State and City ordinance of posting the area proposed to be vacated and notification by mail of property owners within 300 feet of the site. The agenda was posted as required by the California Government Code.

The City placed a public notice display advertisement in the local newspaper of general circulation (San Mateo Times) for a minimum 15-day period beginning on July 28, 2007, for the scheduled public hearing by the City Council on August 14, 2007.

Recommendation

Staff recommends the City Council adopt a resolution vacating a portion of public street right-of-way on Sixth Avenue and O'Neill Avenue.

Alternatives

1. Take public testimony and continue the hearing, directing any questions to staff for research and response. A staff memorandum would be prepared for consideration at a future hearing.
2. Deny the requested entitlement.
3. Take no action.
4. Direct staff to revise the legal description and resolution to vacate only the portions of right-of-way excluding the storm drain easement area as shown on the preliminary parcel map prepared by B & H Surveying, Inc.

Attachments

- A. Resolution approving the street vacation
- B. Street vacation legal description and plat (Exhibit ‘A’)
- C. July 3, 2007 Planning Commission staff report & meeting minutes (Council only)
- D. Preliminary parcel map prepared by B & H Surveying Inc. (Council only)

Respectfully submitted,

Andrea Ouse, AICP
Consulting Planner

Raymond E. Davis III, P.E., PTOE
Public Works Director

Jack R. Crist
City Manager

Staff Contact:

Andrea Ouse, Consulting Planner
(650) 333-3973
aouse@belmont.gov

Raymond E. Davis, Public Works Director
(650) 595-7459
rdavis@belmont.gov

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELMONT
VACATING PORTIONS OF SIXTH AVENUE AND O'NEILL AVENUE
THE FRONTAGE OF 1000 O' NEILL AVENUE (EMMETT HOUSE SITE)**

WHEREAS, the City of Belmont hereby declares its intention to vacate portions of the public street right-of-way on Sixth Avenue and O'Neill Avenue adjacent to property at 1000 O'Neill Avenue (APNs: 045-261-010, -020 and -030), as shown on the legal description and plat attached hereto and included herein by reference; and,

WHEREAS, the City of Belmont, pursuant to Streets and Highways Code Section 8300, *et seq.*, is authorized to vacate street rights-of-way; and,

WHEREAS, the State of California Government Code Section 65402 requires that the Planning Commission review any request to vacate right-of-way to determine if such request conforms to the City's General Plan; and,

WHEREAS, on July 3, 2007, the Planning Commission, following notification in the prescribed manner, conducted a public hearing, at which hearing the Commission considered public testimony and a staff report on the aforementioned requested street vacation; and,

WHEREAS, the Planning Commission, after consideration of all testimony and reports, determined that the proposed street vacation of portions of Sixth Avenue and O'Neill Avenue, achieves the objectives of the Zoning Plan and General Plan for the City; and,

WHEREAS, on July 24, 2007, the City Council initiated proceedings to set the public hearing of August 14, 2007 to act on the proposed vacation of portions of Sixth and O'Neill Avenues, in accordance with Division 9, Part 3, Chapter 3 of the Streets and Highways Code; and,

WHEREAS, the adjacent property owner has consented to the vacation of the Sixth and O'Neill Avenue rights-of-way; and,

WHEREAS, a Notice of Public Hearing to consider the vacation of the Sixth and O'Neill Avenue rights-of-way was published for at least two successive weeks prior to the August 14, 2007 public hearing in a newspaper that is published in the City of Belmont and is designated for the publication of notices and at least three copies of said notice of hearing were posted at least two weeks before the hearing along the portions of Sixth and O'Neill Avenues rights-of-way to be vacated, pursuant to Sections 8322 and 8323 of the Streets and Highways Code; and,

WHEREAS, on August 14, 2007, the City Council held a hearing on the proposed vacation of the Sixth and O'Neill Avenue rights-of-way and heard evidence and testimony from all persons interested; and,

WHEREAS, the City Council finds that the public interest will be served by extinguishing the

City's interest in the referenced portions of the Sixth and O'Neill Avenue rights-of-way.

NOW THEREFORE, BE IT RESOLVED that the City Council hereby vacates the O'Neill and Sixth Avenues rights-of-way, as more particularly described in Exhibits A and B, pursuant to Streets and Highways Code Section 8320 *et seq.*, and hereby authorizes and directs the City Clerk to record a certified copy of this resolution, attested by the City Clerk under seal, with the San Mateo County Recorder's Office.

Commencing with the date of recording of this resolution, the Sixth and O'Neill Avenue rights-of-way as noted on Exhibit "A" and "B" shall no longer be a public street right-of-way.

* * * * *

I hereby certify that the foregoing resolution was duly and regularly passed and adopted by the City Council of the City of Belmont at a regular meeting thereof held on August 14, 2007 by the following vote:

AYES, COUNCILMEMBER: _____

NOES, COUNCILMEMBER: _____

ABSTAIN, COUNCILMEMBER: _____

ABSENT, COUNCILMEMBER: _____

CLERK of the City of Belmont

APPROVED:

MAYOR, of the City of Belmont